

Effective 7/17/2016

11-36a-202 Prohibitions on impact fees.

- (1) A local political subdivision or private entity may not:
 - (a) impose an impact fee to:
 - (i) cure deficiencies in a public facility serving existing development;
 - (ii) raise the established level of service of a public facility serving existing development;
 - (iii) recoup more than the local political subdivision's or private entity's costs actually incurred for excess capacity in an existing system improvement; or
 - (iv) include an expense for overhead, unless the expense is calculated pursuant to a methodology that is consistent with:
 - (A) generally accepted cost accounting practices; and
 - (B) the methodological standards set forth by the federal Office of Management and Budget for federal grant reimbursement;
 - (b) delay the construction of a school or charter school because of a dispute with the school or charter school over impact fees; or
 - (c) impose or charge any other fees as a condition of development approval unless those fees are a reasonable charge for the service provided.
- (2)
 - (a) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee:
 - (i) on residential components of development to pay for a public safety facility that is a fire suppression vehicle;
 - (ii) on a school district or charter school for a park, recreation facility, open space, or trail;
 - (iii) on a school district or charter school unless:
 - (A) the development resulting from the school district's or charter school's development activity directly results in a need for additional system improvements for which the impact fee is imposed; and
 - (B) the impact fee is calculated to cover only the school district's or charter school's proportionate share of the cost of those additional system improvements;
 - (iv) to the extent that the impact fee includes a component for a law enforcement facility, on development activity for:
 - (A) the Utah National Guard;
 - (B) the Utah Highway Patrol; or
 - (C) a state institution of higher education that has its own police force; or
 - (v) on development activity on the state fair park, as defined in Section 63H-6-102.
 - (b)
 - (i) Notwithstanding any other provision of this chapter, a political subdivision or private entity may not impose an impact fee on development activity that consists of the construction of a school, whether by a school district or a charter school, if:
 - (A) the school is intended to replace another school, whether on the same or a different parcel;
 - (B) the new school creates no greater demand or need for public facilities than the school or school facilities, including any portable or modular classrooms that are on the site of the replaced school at the time that the new school is proposed; and
 - (C) the new school and the school being replaced are both within the boundary of the local political subdivision or the jurisdiction of the private entity.
 - (ii) If the imposition of an impact fee on a new school is not prohibited under Subsection (2)(b)
 - (i) because the new school creates a greater demand or need for public facilities than the

school being replaced, the impact fee shall be based only on the demand or need that the new school creates for public facilities that exceeds the demand or need that the school being replaced creates for those public facilities.

- (c) Notwithstanding any other provision of this chapter, a political subdivision or private entity may impose an impact fee for a road facility on the state only if and to the extent that:
 - (i) the state's development causes an impact on the road facility; and
 - (ii) the portion of the road facility related to an impact fee is not funded by the state or by the federal government.
- (3) Notwithstanding any other provision of this chapter, a local political subdivision may impose and collect impact fees on behalf of a school district if authorized by Section 53A-20-100.5.

Amended by Chapter 2, 2016 Special Session 3